

**ORDINANCE 26-99**  
**PROPOSED ORDINANCE #26-99**

**AN ORDINANCE TO AMEND AND RESTATE ARTICLE VIII  
OF CHAPTER 9 OF THE WILLIAMSBURG CODE  
REQUIRING THE LICENSING OF TOUR GUIDES**

WHEREAS, Section 15.2-946 of the Code of Virginia (1950), as amended allows Virginia localities to require that persons who wish to conduct tours in the locality be licensed by such locality; and,

WHEREAS, Article VIII of Chapter 9 of the Williamsburg Code enacted March 11, 1993 pursuant to Ordinance No. 3-93 currently provides for the licensing of tour guides; and,

WHEREAS, in view of the increasing popularity of guided tours in the city's historic area and in order to assure that persons who for compensation act as tour guides on the public streets, sidewalks and other public places and rights of way within the city's historic area have a reasonable knowledge of certain basic facts regarding the city's colonial history and its historic buildings and places and a reasonable knowledge of certain important public safety information which is necessary to the safety and well being of their customers, and further in order to assure that persons acting as tour guides for compensation are aware of the boundaries of such public streets, sidewalks and other public places and rights of way within the city's historic area so as to prevent trespass upon private property, City Council finds it in the best interest of the city and the public at large to adopt more strenuous licensing standards for tour guides.

NOW, THEREFORE, it is hereby ORDAINED that Article VIII of Chapter 9 of the Williamsburg Code is hereby amended and restated in its entirety as follows:

**ARTICLE VIII. TOUR GUIDES**

**Sec. 9-331. Definition of Tour Guide.**

A "Tour guide" shall be any person who for compensation whether as a sole proprietor or as an employee guides and directs one or more persons within the historic district of the city as defined in section 21-411 of the Williamsburg Code and interprets or explains the history of the city and/or buildings or other points of interest to such persons.

**Sec. 9-332. License Required.**

(a) Unless exempted under section 9-337 below, no person may act as a tour guide within the City of Williamsburg without a license as required by this article.

(b) Unless exempted under section 9-337 below, no corporation, partnership, limited liability company, person or other entity may employ any person to act as a tour guides who is not hold a valid tour guide license issued pursuant to this article.

### **Sec. 9-333. Requisites for Obtaining License.**

An applicant for a tour guide must:

- (1) be a natural person at least 18 years of age; and
- (2) have a high school diploma or the equivalent thereof; and
- (3) complete and submit the application as provided in Section 9-337 and pay the required application fee; and
- (4) pass a [written examination](#) as provided in Section 9-335 below;
- (5) have no convictions within the last 60 months of any felony or other law as defined in Section 9-338 (8) and (9); and
- (6) if the applicant will act as a tour guide as an employee, show proof of employment by or an outstanding offer of employment from such employer; provide the employer's name, address and telephone number and provide proof that such employer holds a valid business license for such activity, if a business license is required under applicable laws and ordinances; or
- (7) if the applicant will operate as a sole proprietor, show that applicant holds a valid business license or has applied for a business license if a business license is required under applicable laws and ordinances.
- (8) pay a \$100.00 non-refundable licensing fee to the city finance department, which fee shall be payable upon successful completion of the test required by Section 9-335.

### **Sec. 9-334. License Non -Transferable.**

Tour guide licenses issued hereunder are specific to the person to whom issued and are non-transferable. Any person licensed as a tour guide hereunder who exercises the privileges of such license as a full or part-time employee shall within 30 days of employment or change employers, notify the chief of police or his designee in writing of the name, business street address and mailing address if different than the street address and telephone number of the new employer.

### **Sec. 9-335. [Examination for Registered Tour Guide.](#)**

Tour guide examinations shall be given at least quarterly. A syllabus for study will be provided to an applicant upon payment of the required application fee. The city manager or his designee shall prepare and administer to applicants for city tour guide licenses an examination of the applicant's knowledge of the city and its history and of

pertinent public safety procedures and information. In order to pass the examination, the applicant must correctly answer at least 80 percent of all questions regarding the city and its history and 80 percent of all public safety questions. Applicants who fail the test will be allowed to retake the test at 30 day intervals.

#### **Section 9-336. Business License Requirements.**

(a) No person shall be licensed as a tour guide hereunder unless the tour guide licensee and/or the tour guide licensee's employer holds a valid business license for the provision of tour guide services if required by applicable laws and ordinances. In instances where a licensee who exercises tour guide license privileges both as a sole proprietor and employee, both the person and the person's employer must hold valid business licenses if required by applicable laws and ordinances.

(b) If the applicant or the applicant's employer does not possess a business license the applicant may provide to the chief of police a written certification from the city's commissioner of the revenue that the applicant or the applicant's employer or prospective employer, for whom the applicant will exercise tour guide license privileges, either holds such valid business licenses as are required by applicable laws and ordinances of the city or any other Virginia locality or that no business licenses are required. Applicants who plan to exercise tour guide privileges as sole proprietors are required to possess a valid business license or show written certification that one is not required. After the applicant has met all other requirements for issuance of the tour guide license, such tour guide license shall be issued when the chief of police or his designee finds that all required business licenses have been issued and are in force.

(c) Failure of a tour guide licensee and/or such licensee's employer to at all times maintain in force such business licenses as are required for the conduct of a tour guide business as required by applicable laws and ordinances of the city and any other Virginia locality shall be cause for revocation of a tour guide license issued hereunder; provided, however, that thirty (30) days written notice to the holder of the tour guide license shall be required before revocation of such license. Proof satisfactory to the city's commissioner of the revenue that all required business licenses are issued and outstanding or that no business license is required shall be sufficient to terminate any revocation proceedings based on lack of business license.

#### **Sec. 9-337. Exemptions.**

(a) Any person while acting as a tour guide as an employee of or volunteer for any non-profit historical museum located in the Commonwealth of Virginia which is accredited by the American Association of Museums shall be exempt from the licensing requirements of this article. Any person so exempted shall while acting as a tour guide, wear an identification badge issued by such museum unless required by the museum to wear

colonial period clothing, in which case such person shall in lieu of wearing an identification badge, have on his or her person at all times while conducting tours an identification card issued to him or her by such museum.

(b) Visiting scholars temporarily employed by or acting under the auspices of The Colonial Williamsburg Foundation; the College of William and Mary in Virginia or any other university or non-profit historical museum located in the Commonwealth of Virginia, who specialize in scholarship of the colonial period shall be exempt from the licensing requirements of this article; provided, however that any such person shall while acting as a tour guide, wear an identification badge issued by such institution.

(c) Any person while acting as teacher employed by a public or private school may function as a tour guide for students enrolled in such school.

### **Sec. 9-338. Application.**

An application for a tour guide license shall be in writing on a form provided by, sworn to and filed with the chief of police. Such application shall state the following information concerning the applicant:

- (1) Full name,
- (2) Current place of residence and all other places of residences during the previous sixty (60) months, with the dates of each residence,
- (3) Details of any name changes, including dates and circumstances of any name changes,
- (4) Age, height, race, color of eyes and hair, sex, place of birth and places of previous employment during the previous sixty (60) months,
- (5) Date of birth and educational background,
- (6) Citizenship, including naturalization papers if a naturalized United States citizen,
- (7) Previous professional experience/training as a licensed tour guide,
- (8) Whether or not the applicant has ever been convicted of a felony and whether the applicant, within the past sixty (60) months, has been convicted of violation of any Federal, State, or Municipal law pertaining to the possession, use or sale of controlled substances,

- (9) Whether or not the applicant, within the past sixty (60) months has been convicted of a misdemeanor involving moral turpitude,
- (10) The names, address, and phone numbers of at least three references who will vouch for applicants good reputation for sobriety, honesty, and general good character.

**Sec. 9-339. Police Investigation of Applicant.**

Prior to issuance of a tour guide license and prior to each renewal thereof, the police department shall conduct a background investigation of the applicant and a report of the results shall be delivered to the chief of police and made part of the applicant's file.

**Sec. 9-340. Testing Accommodations.**

Any applicant who due to a qualified disability affecting the applicant's ability to take tests effectively may ask for special accommodations in order to complete the written examination. It shall be the duty of the applicant to make the testing officials aware of his or her needs. Every reasonable effort shall be made to assist individuals who require specialized testing conditions, such as larger type, particular environmental conditions, etc. At no time shall the content of the examination be changed to accommodate a special need.

**Sec. 9-341. Consideration of Application; Issuance; Duration; Fee.**

If the applicant passes the examination required by Section 9-335, furnishes a business license certification from the commissioner of the revenue as required by section 9-336, and if based upon information provided by the applicant as required in Section 9-338 and the results of the investigation conducted pursuant to Section 9-339, the chief of police or his designee is satisfied that the applicant is qualified and fit to act as a tour guide, a tour guide license shall be issued to the applicant. The license shall bear the licensee's name, expiration date, signature and current photograph. In addition, the license shall bear the name of any employer for whom the licensee will exercise the privileges of licensed tour guide. If the licensee will exercise such privileges as a sole proprietor, either full or part time, the license shall also bear any trade name of the sole proprietorship. If the licensee changes employers, so as to work for another employer providing tour guide services, the licensee shall return the license to the chief of police or his designee within 30 days. At that time, the licensee shall be issued a new license bearing the name of the licensee's current employer. Before issuance of the replacement license, the commissioner of the revenue must have issued a business license certification as required under section 9-336 regarding such new employer.

### **Sec. 9-342. Renewal.**

A tour guide license shall remain in effect for thirty six (36) months after date of issue, with the first full calendar month next following date of issuance be counted as the first month. In order to renew such tour guide license, the applicant shall comply with all requirements of section 9-333, including testing requirements. Tour guide licenses issued prior to November 1, 1999 shall remain effective until February 28, 2000.

### **Sec. 9-343. Denial of License.**

If based upon the applicant's test results, information received from the commissioner of the revenue pursuant to section 9-336, the results of the police department's investigation conducted under section 9-339, or other available information the chief of police or his designee determines that the applicant no longer meets the requisites of section 9-343, then the chief of police or his designee shall refuse to issue such license and shall give the applicant a written explanation of such refusal.

### **Sec. 9-344. Suspension/Revocation of License.**

(a) A tour guide license issued under this article may be suspended for a maximum period of one (1) year or revoked at any time by the chief of police after reasonable notice to the licensee and an opportunity to be heard, if:

- (1) The licensee uses his tour guide license for or in connection with the conduct of any illegal activity or for any illegal purpose,
- (2) The licensee has any condition that renders it impossible for the individual, with reasonable accommodation, to perform the essential functions of a tour guide.
- (3) The licensee has been convicted of a felony within the last sixty (60) months, or since the issuance of the license.
- (4) The licensee has been convicted of a misdemeanor involving moral turpitude within the last sixty (60) months, or since the issuance of the license.
- (5) The licensee has provided false information or omitted information on his or her tourist license application which is material to the determination to issue or not issue the license.
- (6) The city within a one hundred twenty (120) consecutive day period has received three (3) or more reasonably substantiated complaints that the

licensee while conducting tours in the historic area included statements of one or more historical facts in his or her tour presentation which are materially at variance with the information contained in the syllabus provided to applicants pursuant to section 9-335; provided, however, that in each instance, the chief of police or his designee shall have given the licensee written notice of such complaint within seven (7) work days from its receipt.

(7) The licensee has committed any violation of provision of this article.

(b) In case of suspension only, the license shall be returned to the licensee at the expiration of the period of suspension, but only if the term of the license has not then expired. However, if the license was suspended due to presentation of erroneous historical information, the chief of police or his designee may require the licensee to reread the syllabus provided under section 9-335 and to take and successfully pass the written examination conducted under such section. In the event of a second suspension for the same cause, or a third suspension for any cause, the chief of police or his designee may revoke the tour guide license after reasonable notice to the licensee and an opportunity to be heard.

(c) Any conviction by the licensee of a felony or misdemeanor involving moral turpitude after issuance of a license to such licensee shall be cause for immediate revocation of his or her license if the chief of police in his sole discretion finds that the offense is of such a nature as to cause reasonable concern for the safety and welfare of persons participating in historic tours or to the public at large.

(d) Denial, suspension or revocation shall be by written notice from the chief of police to the licensee. Such notice shall state the duration, if a suspension and the reasons for any denial, suspension or revocation. The notice shall further advise the party addressed of his or her right to appeal the denial, suspension or revocation to the city manager by forwarding a written appeal request to the city manager within ten (10) business days of receipt of the notice of denial, suspension or revocation.

(e) In the event of the suspension or revocation of such license, the licensee shall forthwith surrender his or her license to the chief of police or his designee and the licensee shall cease to conduct tours in the city's historic area unless the licensee timely appeals the decision as hereinafter provided. In case of a properly and timely appeal, the license shall remain in force until the final outcome of the appeals process at which time if the appellate decision is against the licensee, the license shall forthwith surrendered the licensee cease conducting tours. The above notwithstanding, if the licensee's license expires due to passage of time during the pendency of any appeal, the license shall lapse and the licensee shall not be entitled to reissue until the appeal has been decided in such licensee's favor.

## **Section 9-345. Appeal of Denial, Suspension or Revocation.**

(a) If a tour guide license is denied, suspended or revoked, the applicant may within ten (10) days of receipt of notice of such action deliver to the city manager's office a written request to appear before the city manager to offer evidence why the license denial, suspension or revocation should be reconsidered. Based upon the police investigation and such other information that the applicant may provide, the city manager shall either uphold the decision of the chief of police or overturn or modify such decision and order that the requested license be issued; that the suspension be modified or reversed or that the decision to revoke be converted to a suspension or reversed. The city manager's decision shall be in writing and shall be mailed or delivered to the appellant within ten (10) working days from the city manager's receipt of the appeal.

(b) Within ten (10) working days from the appellant's receipt of the city manager's decision, the appellant may appeal the city manager's decision to an appeals panel to be constituted as hereinafter provided. The request for panel hearing shall be in writing and shall be mailed or delivered to the city manager's office.

(c) Upon receipt of a timely request for a panel hearing, the city manager shall forward the matter to the Tourist License Appeals Panel, which Panel shall be formulated and shall function as provided in (d) below.

(d) The Tourist License Appeals Panel shall consist of three residents of the city, all of whom shall be appointed by the City Council. No Panel member shall have been involved in any manner in the processing of the permit application of any appellant appearing before it, nor in obtaining or processing information upon which any decision to suspend or revoke the appellant's license was based. No member of the city manager's office, the police department, or the commissioner of the revenue's office shall be appointed to the Appeals Panel. Appeals Panel members shall not receive compensation for their activities as Appeals Panel members. A person appointed to the Appeals Panel shall continue to serve at the pleasure of city council or until they resign or are removed. The Appeals Panel shall conduct the hearing in accordance with the following procedures:

- (1) Private Hearing - The hearing shall be in private, unless the appellant requests that the hearing be open to the public prior to commencement of the hearing.
- (2) Representation - Both the appellant and the city may be represented by representatives or legal counsel at the hearing, and both may call upon appropriate witnesses, and may cross-examine the opposing side's witnesses. Each party shall bear all costs in employing representatives or legal counsel, and all costs of preparing and presenting their case.



- (3) Burden of Proof - The appellant shall bear the ultimate burden of proving by a preponderance of the evidence that the decision to deny, suspend or revoke his or her tour guide license is not in accord with the provisions of this article and is invalid.
- (4) Opening Statement - The appellant shall proceed first in the hearing. Each side shall be allowed fifteen (15) minutes prior to the presentation of evidence within which to make an opening statement.
- (5) Exhibits - Exhibits, when offered by either side, may be received as evidence by the Appeals Panel upon proper authentication if such exhibits are deemed appeals by the Appeals Panel to be relevant and material to the issue of the validity of the decision to deny, suspend or revoke the appellant's license. When exhibits are received by the Appeals Panel, they shall be marked for identification and made a part of the record.
- (6) Evidence - The Appeals Panel shall be the judge of the relevancy, materiality and weight of all evidence offered at the hearing.
- (7) Closing Summation - When both sides have indicated that their evidence has been fully presented in accordance with these rules the chairman shall permit each party to present a closing summation which shall not exceed fifteen (15) minutes in duration. Upon the conclusion of the presentation of the closing summations, the Appeals Panel shall declare the hearing closed. Once closed, the hearing may not be reopened.
- (8) Transcript - The city shall make a verbatim record of the hearing on recording tape, from which a transcript of the hearing shall be prepared and certified, for filing with the court in the event of an appeal from the Appeals Panel decision. The cost of one copy of such recording and transcript shall be borne by the city, although the city may prepare additional tapes or transcripts for its own use.
- (9) Appeals Panel Decision - After a full hearing on the merits of the matter appealed, the majority decision of the Appeals Panel shall be filed in writing by the Appeals chairman with the city manager not later than ten (10) working days after completion of the hearing. A copy of the decision shall be transmitted forthwith to the appellant and his or her legal counsel. The written decision shall contain findings of fact and shall state the reasons for the decision. The Panel shall determine in its decision whether the license denial, suspension or revocation was in accord with the provisions of this article and if it finds that such action was in accord with such provisions, then such action shall be upheld.

**Sec. 9-346. Display of License.**

Every person licensed under this article, shall wear such tour guide license on his or her person in plain view at all times when exercising the privileges of such license.

**Sec. 9-348. Entry on Private Property Without Permission Prohibited.**

Prior to conducting any tour on private property the tour guide licensee shall obtain written permission from the owner of the subject property and shall furnish a copy thereof to the chief of police or his designee. Such written permission shall set forth the location of the subject property, the dates and times during which entry is allowed, the maximum permissible size of permitted groups, the types of activities permitted and any other limitations and conditions of entry. Any entry onto private property in the historic area without permission of the owner thereof or any violation of the owner's written permission to enter shall be a violation of this article.

**Sec. 9-349. Additional Prohibited Acts.**

(a) No person while acting as a licensed tour guide shall consume or be under the influence of alcoholic beverages or illegal substances, nor shall such person act as a tour guide while under the influence of prescription medications which materially affect such person's ability to conduct a tour in a safe and prudent manner.

(b) No person licensed hereunder shall conduct any tour under such person's control or act in any manner which unreasonably disrupts other guided tours or which interferes with general pedestrian passage and safety on public streets, walkways and other areas open to the public.

(c) No person licensed hereunder shall conduct any tour under such person's control in such manner as to interfere with the peace and tranquility of occupants of buildings and private yards and spaces or in such a way as to interfere with ingress and egress to and from private buildings and property.

(d) No person licensed hereunder shall violate any federal, state or local law, ordinance or regulation while conducting any tour or while exercising any other privilege which may be accorded to a licensee under this article.

(e) It shall be the duty of any person licensed hereunder to promptly report to the city police department any violation of any federal, state or local law by any participant in any tour group conducted by such licensee and failure to do so shall be a violation of this article.

**Sec. 9-450. Violation a Misdemeanor.**

Any person who knowingly makes any false statement or omission on an application filed under this article; who acts as a tour guide without the license required hereunder, who employs any person to act as a tour guide who does not hold a license as required hereunder, or who violates any other provision of this article shall be guilty of a Class 2 Misdemeanor. Such criminal penalty shall be in addition to and apart from any license suspension or revocation provided for herein.

And be it FURTHER ORDAINED that this Ordinance shall become effective as of November 1, 1999 and all tour guides must hold licenses issued pursuant to this Ordinance as of March 1, 2000. Tour guide licenses issued under Ordinance No. 3-93 which is presently in force shall remain valid until midnight February 28, 2000.

Adopted: October 14, 1999